



Appeal of Daniel and P. Heether

The question presented is whether appellants are entitled to a solar energy tax credit.

On their joint personal income **tax** return for 1978, appellants claimed a solar energy tax credit based on the cost of installing window film in their home. Respondent determined that the window film did not qualify for the tax credit since it was not installed in conjunction with a solar energy system as defined by the Energy Resources Conservation and Development Commission (hereinafter "**the Commission**".) A proposed assessment was issued reflecting the disallowance of the credit, appellants protested, the assessment was affirmed, and this timely appeal followed.

The statute allowing the solar energy tax credit provides, in relevant part:

Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit.... Energy conservation measures, which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria. (Emphasis added.) (Rev. & Tax. Code, § 17052.5, subd. **(a)(5).**)

Appellants bear the burden of showing that respondent's determination is erroneous. (Appeal of David A. and Barbara L. Beadling, Cal. St. Bd. of Equal., Feb. 3, 1977.) Although window film may qualify **as an** energy conservation measure under the Commission's guidelines (see Cal. Admin. Code, tit. 20, **§§ 2601-2608**), appellants must show that it was installed in conjunction with **a** solar energy system. Since they have not **done so, we must sustain respondent's action.**

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O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Daniel and P. **Heether** against a proposed assessment of additional personal income tax in the amount of \$69.15 for the year 1978, be and the same is hereby sustained.

Done at Sacramento, California, this **19th** day of August **1993**, by the State Board of Equalization, with Board **Members** Mr. Dronenburg, Mr. Nevins and Mr. Bennett present.

Ernest J. Dronenburg, Jr., Chairman

Richard Nevins, Member

William M. Bennett, Member

_____, Member

_____, Member